IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1217 of 2002

Shri Madhav S. Sant & Anr..Petitioners
Versus
The State of Maharashtra & Ors..Respondents

Shri M.N. Ganguli, for the Petitioners
Mr. G.W. Mattos, for Respondent No.1 and 2.
Mr. V.P.Sawant and Mr. N.R. Patankar for Respondent No.3.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE : 5TH OCTOBER 2006

P.C.

. The petitioners were earlier employees of the State Government. Thereafter they were allotted to respondent No.3, on that Corporation being constituted. The date of allotment was 1st September, 1975. The Government as a one time measure decided to commute the entire pension and paid the same on 13th March,1980. The petitioners herein filed O.A. contending that the period of 15 years to be counted from 1st September, 1975 and not from 13th March, 1980. The Tribunal after going into the issue held in favour of the respondent State. Considering the Circulars what would be applicable is the date of commutation and not the date of allotment. This is the subject matter of the present petition.

2. We have heard the learned Counsel for the parties and considered the various resolutions. In our opinion the point was whether a person who ceased to be a Government employee and has been transferred/allotted to another undertaking of the Government is entitled to pension. Earlier there were some circulars setting out that employees who ceased to be Government employees

would not be entitled to pension. The Government by subsequent resolution on 26th May, 1997 decided to grant pension to such employees who had been absorbed in Public Sector Undertakings, etc. However, in the instant case the Government Resolution Clause 4 read with Appendix-A dated 30th April, 1975 protects the condition of service including pensionary benefits in terms of Appendix -A. In terms of the Appendix Clause 5 Pensionary liability in respect of the service rendered under Government by a permanent employee, who is eligible for pension, will be of Government and the said pension will be payable when the said employee finally retires from Haffkine Institute for Training, Research and Testing/Haffkine Bio-pharmaceutical Corporation Ltd. In other words the entitlement of pension in respect of these two institutions were specifically covered by Government Resolution of 30th April, 1975. The right to receive pension, therefore, follows from the resolution of 30th April, 1975. Inspite of the fact that the liability would be after their retirement on representation by the employees the Government decided to commute the entire pension. This was done on 13th March, 1980. The learned Counsel at the time when the judgment was being dictated produced another resolution dated 5th April, 2003. That speaks about those employees who were drawing lump-sum amount on the absorption in the public sector undertaking. In the instant case the issue is when the Government pension must be disbursable. In the instant case the pension would have been disbursable only on retirement of the Haffkine Institute. That date was preponed and, therefore, the date on which they were paid

pension would be the date for the purposes of computing 15 years. We are, therefore, of the opinion that the impugned order does not suffer from any error apparent on the face of the record and consequently we find no cause for interference. Hence petition dismissed.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)